

Region V
Midwestern States

**Regulatory Enforcement Fairness
Hearing**

Columbus, Ohio
June 22, 2004

P R O C E E D I N G S

MALE SPEAKER: (Inaudible), so I've been around a little bit, but we have regulations and things in this country that business has to comply with that they don't have to in other countries. This makes it difficult to increase business here, and bring jobs here. (Inaudible), if you're big enough to do it (inaudible).

MALE SPEAKER: (Inaudible) what I would (inaudible) to speak with your congressman to change the rules (inaudible). Thank you.

MALE SPEAKER: Like I said, she's paying attention. Innovative Solutions -- are they here? Well, if your name is Steve or Frank Barbarits you're Innovative Functions.

MR. LAWHORN: Unfortunately, Innovative Solutions could not be here, as well as Innovative Functions, as well as Quality Business Concepts. -- They're clients of mine. I represent (Inaudible) Technical Assistance Center, representing the southern part of Ohio. Tom Wheeler and I had an opportunity to assess the issue that my clients --

MALE SPEAKER: Tell us your name, first.

MR. LAWHORN: My name is Kelly LAWHORN.

MALE SPEAKER: Thank you.

MR. LAWHORN: Thank you.

MALE SPEAKER: Go ahead.

MR. LAWHORN: These four companies are actively engaged in getting more work through the Defense Logistics Agency, through supervisor (Inaudible) in Philadelphia, and (Inaudible) in Richmond.

The issue at hand -- particularly all four of these companies except one, are (inaudible) companies. There is a solicitation out on the streets (inaudible) set-aside. It's for spare part manufacturing of over 600 small part items -- perfect for a (inaudible) company.

The problem is there is a regulation that states, if someone who is (inaudible) certified, works with a company that is in an area that's not (inaudible) certified, and they're partnering -- what makes it difficult is 51 percent of the manufacturing costs must be performed in a hub center.

So in southern Ohio, what that means for us is the skilled machinist that can actually produce the parts, are not located in the hub center. I mean, you're literally within 20 miles of

where the citizen's bureau (inaudible), so that the gentleman that is certified as the (inaudible) contractor, who is very good at the paperwork, cannot team or partner with the gentleman that actually manufactures the parts.

What does that mean for southern Ohio? It means they have to go try and find someone else to partner with. Oftentimes people feel a little uncomfortable with going outside their community in trying to set up a partner relationship with people they don't know.

As a (inaudible) center, our goal is to continue counseling on how they can do business with the government -- particularly with the department of the military, the Department of Defense. So it just seems like if we can't get this regulation changed, or we can't create a pilot program, potentially this problem could happen again and again.

Two of my partnering teams (inaudible) in the hub zone, wanting to work with a manufacturer not in the hub zone had to let this opportunity go. This is a five-year, long-term contract. I can tell you that in southern Ohio, (inaudible) population, we are also losing jobs daily. So anything I can do to continue fostering economic development in Ohio (inaudible) proactively with (inaudible).

MALE SPEAKER: What's the dollar value of these contracts?

MR. LAWHORN: This particular estimated dollar value of (inaudible) 600 parts -- I'd say anywhere between \$5 and 7\$ million. The great thing about the contract is these part items require no first article testing, which means there's not an inspection team that comes up and visits the facility. They're very simple and easy to manufacture. That's why the buyers and the folks at the SEC wanted to go the extra mile and set it aside for (inaudible) companies.

MALE SPEAKER: I'm just looking at the changes that have been proposed but it's a lower dollar amount -- (inaudible) \$5000 or less per contract.

MR. LAWHORN: I'm sorry, sir, I can't hear.

MALE SPEAKER: No, it's the -- there are some new regulations proposed right now for hub zone manufacturers, but if you have your people file a comment with us, then we'll take it to the hub zone folks and see what we can do between DOD and the SBA.

MR. LAWHORN: I'll make that happen (inaudible).

MALE SPEAKER: Thank you.

MALE SPEAKER: I had a quick question. Were all three

companies going to perform the same tasks with a less than 51 percent administrative function zone, and then they're having folks outside the zone actually do tooling?

MR. LAWHORN: Correct. Particularly most of our larger job shops and manufacturing facilities are located in Ross County. The Census Bureau says Ross County is too close to the Columbus metro area so there's only one section in the whole county within the hub center. The crazy thing about this actually is that, actually it's all wooded -- no one lives there. That's why it's a hub center.

MALE SPEAKER: So that the three companies are all using the same -- pretty much -- centralized location (inaudible)?

MR. LAWHORN: Correct.

MALE SPEAKER: I mean you can't get it as a hub zone-- it's too close to metro?

MR. LAWHORN: Correct. Each of these companies knows three different machine shops in the Ross County area that they feel comfortable in using. And these machine shops have performed very well in the commercial marketplace.

They looked in their own backyard first for hub zone companies within their own county, within their own community. The problem was that these smaller shops could not perform in the event these companies were successful in getting the contract. The quality that was required, the company was not able to perform so they had to go to a bigger market.

MALE SPEAKER: Thank you very much.

MR. LAWHORN: Thank you.

MALE SPEAKER: Please make that happen.

MALE SPEAKER: Are you aware of the filing process? Paper forms are in the back if you don't want to do the website.

MALE SPEAKER: (Off mike)

MALE SPEAKER: Okay, right.

MALE SPEAKER: Charles GOODALL?

MR. GOODALL: (Inaudible) jumped the gun. We've engaged (Inaudible) to facilitate this (inaudible). I know that was (inaudible).

My name is Charles GOODALL, and I'm the owner of Toolroom Calibration Incorporated. Our DBA is alliance calibration. We're from Cincinnati, Ohio. We're very small potatoes compared to the rest of the folks that have been talking here today. I really appreciate the time for us to do this. We're a small company of 10 employees. We're in the quality services

business. We maintain accredited standards and procedures for measuring hand gauges and such for businesses that require their measure tools to be calibrated.

Today I'm here to appeal for your help on an issue that I'm engaged in with the Department of Labor, that I believe (inaudible) on an unjustified audit. From what I've been told from the other employees, the audit is the result of letter that was sent in by a former employee while he was still in my employment.

According to the first employee who shared this letter with me, or shared the facts about this letter, this former employee had been courting all the other employees in an attempt to get them to leave my company and to go with him and to form another company.

He felt he had an issue, a technicality, that he could bring to the attention of the Department of Labor, so that he could possibly get an audit to happen -- that he would find some things -- he heard from a (inaudible) that he was in, in rural Kentucky, that is up to \$11,000 per offense.

(Inaudible) with that, and he shared with them that he if he could (inaudible) would run me out of business and he'd be right there with a check -- to write a check (inaudible) if I went under. By the way, I have not issued the comment yet (inaudible). I'd be happy to that this afternoon.

This person was part of my organization when I purchased it in 1999. The previous owner had refused to sell it to him. He sold it to me and he has continued to want to purchase the company, in one way or another, ever since.

The original reason for the audit that was sent in was that when I purchased the company, everybody but the part-time employees were on salary. They were never really officially designated exempt or not exempt.

During the first four years that I owned the company, we officially had no sick time. When people were sick, I let them stay home, and I paid them, but we just had a general understanding that if I ever needed them to work extra, a little bit on weekends, or something, that they could make that up. To my knowledge nobody has ever made anything of it (inaudible) nobody really took advantage of the situation either, until back in about 2001.

I had a new person come on, and he used -- I mean the first three months he used up all his vacation, he used up everything. He started taking sick time like every day, he (inaudible) two weeks of extra vacation. That's what he did by my generous sick policy, which I never really had.

Well when I had to do (inaudible), to put in place -- that couldn't happen, that had to stop, so I (inaudible), but I still wanted him to make it up. (Inaudible). This year, 2004, for whatever reason, in springtime, everybody was taking sick time. I was losing money left and right, as far as (inaudible).

So I issued a policy that was in force for 30 days, and fixed it -- but I said, when you take sick, I want you to let me know when you're going to make it up. That needs to be the case. And, I laid that all out.

This fellow found a technicality on that, wrote it in, and one of the other employees let me know. He got me off to the side and talked (inaudible) and said, 'Chuck I just want you to know that I think you might be doing something illegal. I said, what?

So what I did was I went and engaged my lawyers, and a company called Target Solutions, (inaudible) human resources firm. (Inaudible), he fixed us. It was six (inaudible) later - - this letter had already been sent to DOL.

In the meantime I said, well, if I'm wrong here, I may be wrong in some other places, so I (inaudible) my whole HR (inaudible). I was proactively going after this. They did this -- Target Solutions was (inaudible) Innovative Solutions out of Cincinnati was another group (inaudible) that was helping me also with some things. (Inaudible) organizations down there -- just trying to get our organization in better shape as far as being (inaudible) in line.

Well, what he did, (Inaudible) Solutions (inaudible) was my sick time policy was in force for less than a 30-day period to initiate a complaint. Those changed a week later. No sick time was ever recorded during that period, so there were no violations.

But what we did as a result of getting Target Solutions in there, is we got everything in colored (inaudible) files, I-9 files, non-(inaudible) agreements -- I mean everything. We (inaudible) job descriptions to make sure who was exempt, who was not exempt -- (inaudible) people were not exempt, and we're proactively going after all these things.

A couple of months later, I get this phone call from the Wage & Hour Division and they said, I spoke with (Inaudible). We're coming in, we'll be doing an audit. I said, well, why? I explained that I knew about the letter and that we had taken proactive steps, that policy was changed within a week. He said, well, it's the result of a request a lot of times. (Inaudible). He said, a lot of times it's the result of a request. And that's been his constant answer.

In the meantime, Target Solutions has gone on and issued non-compete agreements for everybody, and this employee who sent that letter refused to sign it, obviously, because he wanted to take over my company, and take over the customers, and (inaudible). He went off that day and resigned. (Inaudible) he was about to be terminated as a result of a violation of his probationary period. He'd been on a 60-day performance plan after some nine violations. These fellows were gamers -- their (inaudible) took advantage of my policy, took an extra three weeks of vacation.

The thing is, I'm doing all the right things here. My sick policy was fixed, I collectively engaged in innovative as well as targeted solutions, (inaudible) has helped me do these things, and told me about this meeting here.

I'm asking for proof of judgment in this case, for someone to recognize this case for what it is. I'm begging you to ask the DOL to look at the circumstances and realize we're misusing tax dollars here, wasting the few resources that I had to facilitate hiring all these lawyers, consultants, and use of my time on fixing these things for the benefit of my company. I'm trying here; trying to keep my company afloat, and keep at least these 10 jobs open, and I'm having trouble doing that with this. I am asking for your help today.

MALE SPEAKER: Your first step is to file a comment, as you said you were going to do. Do you (inaudible)?

MALE SPEAKER: (Off mike)

MR. GOODALL: The official name is Toolroom Calibration Incorporated. Toolroom is one word -- Toolroom Calibration Incorporated.

MALE SPEAKER: Has the audit been completed yet?

MR. GOODALL: It's in process. They're currently engaged (inaudible) Innovative, who represented us, and they're currently accepting written correspondence from the employees, written surveys, and they're also calling (inaudible).

MALE SPEAKER: (Off mike)

MR. GOODALL: That's correct.

MALE SPEAKER: You're not (inaudible)?

MR. GOODALL: That is correct.

MALE SPEAKER: Well, you file a comment. Thomas has a head start on your case, because there is no (inaudible) statement right now. We'll take the comment and we'll get it over to him tomorrow or you can file it this afternoon, and we'll see what we can do to help.

MR. GOODALL: Thank you so much for your help.

MALE SPEAKER: Thank you.

FEMALE SPEAKER: (Inaudible) I want to make a (inaudible) was fined for not wearing (inaudible). (Inaudible), and we did (inaudible) a violation of (inaudible). It is a (inaudible). (Inaudible).

MALE SPEAKER: Thank you. Terry GIRTON?

MR. GIRTON: My name is Terry GIRTON, (Inaudible) went into IRS debt in 1999. Unbeknown to me, the bookkeeper, didn't pay my (inaudible) for a period of about a year and a half, two years.

Mr. (Inaudible) came in (inaudible), I believe, in September of 1999, (inaudible) to the problem, which the bookkeeper had (inaudible) kept from me. She also left us with a letter (inaudible) to the fact that she willfully kept this information from the board of directors, which I was president of (inaudible).

At that time, Mr. (Inaudible) came in and told us we had a (inaudible), I believe, it was a \$49,000 debt, which (inaudible). The company had (inaudible) employees at that time. The debt kind of took the wind out of the small company (inaudible) two Hallmark stores in the town, at that time. (Inaudible) the actual debt of this thing which occurred in (inaudible) and part of 1999, comes to the tune of \$49,000, which \$27,000 of it was the actual (inaudible) debt,

(Inaudible), the bookkeeper finally leaves, so we reached an agreement with Mr. (Inaudible), a very pleasant, professional man, when he wasn't (inaudible) shit on me. (Inaudible) IRS debt, and then the IRS (inaudible) would work it out with us.

So we dropped the \$49,000 (inaudible) to a \$2,000 debt (inaudible) shocked. At that time my wife went in with me, discussed it and so forth, and he was very professional, and said, I think you guys (inaudible). (Inaudible). So we came back in a couple, three weeks, and we (inaudible) the debt was pretty close to what he said it was on there.

So we worked out an agreement to pay \$1,000 in the summer months, per month and (inaudible) in the winter. That was all well and good -- this was a small (inaudible) taxes.

I terminated five employees in between that time and the bookkeeper was one of them. (Inaudible) do it the best that we can. At that time I also took a second midnight to 8:00 job (inaudible). At that time, we were (inaudible) substantial (inaudible). I maintained that for about a year and a half, two years, (inaudible) notification from IRS that the \$49,000

debt was now (inaudible).

Well after paying \$22,000 in debt for two years and (inaudible) the papers and interest. At that time we were -- I guess you'd say we were ignorant to the ways of the small business association as well as the tax advocate general's office and so forth. This time we had been consulting with the (Inaudible) office (inaudible), her name --Sheila is (inaudible). We couldn't get anybody on the phone that would give you direction.

After two years and so many months, basically we had to strip the corporation of all the inventory and assets (inaudible) down to where we were a company that kept (inaudible).

So we ran on the inventory for two years. She gave (inaudible). We ran out of money in about two years (inaudible) in office. We tried to get someone to (inaudible), and at that time Jane retired and (inaudible) for many months. Our money and paying debts (inaudible) for a couple of years (inaudible). Basically, (inaudible) to zero (inaudible).

(Inaudible) by the Chicago office (inaudible). (Inaudible) notification of this (inaudible). They wrote us a letter of non-compliance with the agreement (inaudible). We agreed with (inaudible), three weeks ago, and basically paid a small (inaudible) of \$52,500 within 30 days or (inaudible) bolt the doors.

We are a (inaudible) business company. (Inaudible) the old-fashioned way (inaudible) business in 30 days. (Inaudible) business, which is just isn't physically possible. We can't do it. They made other demands in that respect, that (inaudible) we had (inaudible) inventory down. I don't think we can do this (inaudible). I don't think you need it.

(Inaudible) inventory and equipment constitute me taking (inaudible) commitments. (Inaudible) this day and age in small town USA, now with (inaudible). The business has run in the red for the last five years.

When I made a comment to that effect, that when you come in and bolt the doors, you're not going to get (inaudible) out of the business (inaudible). (Inaudible) rather do than (inaudible) a smart ass (inaudible). A man in his position, with that attitude of walking in, I am God, that's it. This is the way it goes. If you have any questions on anything to do with that, I can (inaudible).

It wasn't very nice to be given an ultimatum of what you don't want to hear out of (inaudible) walking in the room. (Inaudible). This man had no place being in this position,

(inaudible) very severely (inaudible). And he is God (inaudible).

MALE SPEAKER: They needed that.

MR. GIRTON: Well, this -- I've heard horror stories like this, but because he was such a gentleman and did everything in the proper way (inaudible) didn't tell that all this money we were spending was going to be consumed in the payments of interest -- no disclosure up front on it.

That's the bad part, because my wife and I had worked 16-hour shifts for five years to (inaudible) this, and then the crime that we (inaudible) payments three and a half years ago, I would have taken away the other (inaudible). She never has (inaudible). We were trying to (inaudible) something come back together. (Inaudible) third generation, it will be our (inaudible) year next year.

In order to meet this \$52,500 demand of his, I'd have to sell contents, (inaudible), machine shop, which is the only machine shop in 25-miles, (inaudible), this business is dead. It is done for now due to his inflexibility. This small business has been there for (inaudible) years. I'm third generation now. And I'm done.

MALE SPEAKER: I'd like for you and your wife to sit down and fill out a comment form that I can take back with me. My friends from the IRS may have something that they can offer.

FEMALE SPEAKER: (Off mike)

FEMALE SPEAKER: Does he know about the two organizations (inaudible)? And the year before the (inaudible), we found that he had also had problems a year and a half prior to that, and (inaudible) never asking (inaudible).

MR. GIRTON: This has gone on longer than that, ask any board member in the corporation. So there's where you sue for penalties and interest overtime. If we had known at the beginning that this seven-person corporation (inaudible), went down the (inaudible). This was tough. A guy works 16-hour shifts every day, and then tries to maintain (inaudible). (Inaudible) for five years. It shouldn't have to happen.

MALE SPEAKER: Well, we want to try and help.

MALE SPEAKER: I have a question. How's that \$53,000 -- what is penalty and what is actually taxes?

MR. GIRTON: (Inaudible) \$19,000 (inaudible).

MALE SPEAKER: So, \$19,000 versus another about \$30,000 in penalties, is that right?

MR. GIRTON: Yeah.

FEMALE SPEAKER: Yeah, we have (inaudible) that he didn't understand why he didn't find the (inaudible). You know, (inaudible) tax loop, we couldn't find any there. (Inaudible).

MALE SPEAKER: (Off mike)

FEMALE SPEAKER: We have -- the IRS does have (inaudible) for the trust amount, and there is a (inaudible) president of the corporation. That amount -- \$19,131.32 versus \$52,000.

MALE SPEAKER: Is it standard to confiscate (inaudible) tax returns each year for the last five years?

MALE SPEAKER: (Inaudible) tax situation (inaudible).

MALE SPEAKER: Well, that's we (inaudible) assumed against the penalties of the corporation.

MALE SPEAKER: (Inaudible) contact (inaudible).

MR. GIRTON: Four years late.

MALE SPEAKER: (Inaudible) give your name and (inaudible) try and solve (inaudible).

MALE SPEAKER: Fill out the comment form and give us the information after this session is over. That's why we're here. We're here to help.

MALE SPEAKER: (Inaudible) glad to be here and (inaudible).

MALE SPEAKER: Thank you very much. If you'll fill that out, that would be great.

MALE SPEAKER: I just want to say too, that (inaudible) people get into problems (inaudible) stick up for them. I didn't (inaudible).

MALE SPEAKER: Everybody can't be fiscally (inaudible). I have to say that (inaudible).

MALE SPEAKER: Thank you.

MALE SPEAKER: We have a job to do, but he didn't really have to (inaudible).

(Tape interrupted)

Mr. KAYNES: In 2002, OSHA made a surprise inspection to measure the lead content in our silver-polishing department. During this inspection, they also detected (inaudible) air containments. They found the level of silver dust to be higher than permissible. They issued citations we responded to.

Through the entire history of our company, we've had no health-related issues due to silver dust, even though some

employees had worked in that department for over 30 years.

Following the posting of the violation, one of the 30-plus year veterans, even had (inaudible) checked at a local hospital. It was found to have absolutely no ill effects caused by the silver dust in the air.

Since our business has been financially strapped for the past two years, which OSHA disputed, even though we produced documentation, clearly indicating net losses each year, we asked that they simply allow us to have our employees wear respirators to protect them from any air borne silver dust.

These respirators are currently being used, and we've gotten all the necessary tests to ensure their effectiveness. In fact, we had one 20-plus year employee quit, when we required the respirators. He had a beard and wouldn't shave. This kind of talent is not easily replaced.

But OSHA wouldn't let us settle the issue. They insisted we find an engineered solution. They flew in experts from Utah to analyze our situation and recommend solutions.

Now we're a company of less than 50 employees, and only about seven or eight are affected in this part of the plant. It seems like an overreaction. As the OSHA laws on the Internet indicate, from a 1939 study, there are no truly serious health hazards associated with silver dust. But silver dust has a PEL of 10 times lower than lead, which is a know carcinogen. Something just doesn't seem right with this.

Dealing with all this is financially difficult. We've already had to spend \$4,000 plus on legal fees and are in the process of spending another \$10,000 on air system improvements that they recommended. But, there is no assurance that these corrections will bring us down to an acceptable PEL. So we fear further pressure and expenses (inaudible).

Currently our problem is that we've agreed to the settlement with OSHA to make the changes they recommended, even though this will be financially next to impossible.

My question for you is, is there any way that you could help us get this Resolved? If they just say, okay, use respirators," we can get back to business, and they can get back to hunting down the serious safety hazards, instead of putting the heat on the little guyslike us.

Any assistance you can provide will be greatly appreciated. And I want to say for the record, I'm scared to death. I'm scared -- even though the law says there is no retaliation, I'm terribly frightened.

MALE SPEAKER: Well, Bob, don't be frightened, number

one. Number two; do you have that in writing so that I can take it back with me?

MALE SPEAKER: (Inaudible) Tom and I already have the (inaudible).

MALE SPEAKER: I'm sorry?

MALE SPEAKER: You went ahead and filed a comment?

Mr. KAYNES: I've already filed a comment.

MALE SPEAKER: Yeah, okay.

MALE SPEAKER: The testimony he just gave is actually in the package.

MALE SPEAKER: Okay. Joanne? Does Joanne want a (inaudible)?

MALE SPEAKER: (Off mike)

MALE SPEAKER: Right.

MALE SPEAKER: (Off mike)

MALE SPEAKER: Please.

FEMALE SPEAKER: I thank you for the opportunity. Many of us (inaudible) OSHA (inaudible). (Inaudible) we agreed that isn't (inaudible). They do (inaudible) at the company as we had (inaudible). (Inaudible) inspected a lot of times by (inaudible) OSHA office (inaudible) having to do with (inaudible). We've also helped (inaudible) employees.

At one point he (inaudible). He told me of (inaudible) violations (inaudible) to lower their exposure from 200 (inaudible) to 25 (inaudible). (Inaudible) work stations (inaudible) to communicate and educate (inaudible).

MALE SPEAKER: (Off mike)

FEMALE SPEAKER: Yes. The education (inaudible) was talking about. There was an inspection that we conducted as a result of the OSHA (inaudible). (Inaudible) conducted in May of 2002, and we did do (inaudible). (Inaudible) silver polishing and silver repair department, and that is because we do not (inaudible). We talked to an (inaudible) exposure to (inaudible), and we did find that there was no (inaudible).

The company did come in, and we did reach an informal agreement on two occasions, and there were two citations. The total penalty was \$3,325, and it was reduced to \$2,327.50, and a copy of the informal settlement agreement was forwarded to the union (inaudible).

The company was given a (inaudible) point, no-interest until November The company was also given an extension of time

to put in engineering controls and a respirator program. OSHA offered the assistance of the Ohio State (Inaudible) Service, which is a service funded 90 percent by the federal government, 10 percent by the state, in correcting not only the engineering controls, but also the respirator violations.

So we want to offer him the free assistance. He told me he decided to hire a private consultant, and use the Ohio (inaudible) for assistance in conducting air safety (inaudible) and writing the respirator program.

Now on July 22nd, the company provided us -- OSHA -- with (inaudible) results conducted by the Ohio PWP, which was--and a copy of a partial consulting report dated October 15. (Inaudible) interesting. The reports did show that (inaudible). The company maintained their position (inaudible).

Now PWP results revealed again, and OSHA took our results back in May of 2002, that four of the five employees (inaudible) were still overexposed. So we granted them another extension of time (inaudible) until December 8, 2003. (Inaudible).

On December 4, 2002, the company requested another six month extension of time for engineering (inaudible) controls to (inaudible) overexposure. The company wanted additional time to reevaluate their financial position, and requested (inaudible) control. The decision was made to deny the company the (inaudible) if they did not provide more specific information on how they were going to reduce the (inaudible) to exposure to silver.

The company (inaudible) came into our legal people in Cleveland and we did meet, and that was the first time we met with their attorney. Throughout the other settlement agreements, we did not meet with the attorney. OSHA offers for assistance (inaudible).

Mr. (Inaudible) was right, we flew somebody in from Salt Lake City, and to (inaudible) a possible alternative method. Following the visit, we did (inaudible) a recommendation for engineering controls, which we believe would abate or correct the silver overexposure. The (inaudible) costs were estimated under \$5,000.

These recommendations were considered into a formal settlement agreement, which was recently signed on May 1, 2004. The settlement agreement indicated that we gave (inaudible) until May 1, 2005, so the original correction date was in July of 2002, and we've extended now to 2005, which is about three years. The settlement agreement was signed by the company on May 5, but did not become a final order (inaudible) until just last Friday. So, it was just final last month.

In summary, OSHA has worked with the employer by recommending the Ohio State (Inaudible) Services, we reduced the penalties, we offered a payment plan, we granted several abatement extensions, and we arranged to (inaudible) held responsible. Thank you.

MALE SPEAKER: Is this a comment? Is this an active comment?

MALE SPEAKER: Yeah.

MALE SPEAKER: Have the (inaudible) filed a comment?

MALE SPEAKER: Yeah, he already filed a comment. That's just the response.

MALE SPEAKER: (Inaudible) the response from our office?

MALE SPEAKER: No, I don't think the response has (inaudible) yet.

But I do have one question. You've indicated earlier that the remedy of having the respirators -- was the testing that you've indicated that the content, that the level of silver in the --

MALE SPEAKER: (Off mike)

MALE SPEAKER: Okay, but were the individuals that were working the line -- you mentioned some folks were tested, and they had a high silver level. Was that before the respirators or after?

FEMALE SPEAKER: After (inaudible) put in a respirator program.

MALE SPEAKER: Okay.

MALE SPEAKER: (Off mike)

FEMALE SPEAKER: Yes, yes, they've got a respirator protection program in place (inaudible).

MALE SPEAKER: Okay. So what's the reason why they can't use that as a remedy currently? I believe there are seven workers that are in that process?

FEMALE SPEAKER: (Inaudible) respirators (inaudible) control for overexposures (inaudible).

MALE SPEAKER: Why is that?

FEMALE SPEAKER: That's (inaudible) function of (inaudible).

MALE SPEAKER: So (inaudible) system instead of a local control?

FEMALE SPEAKER: A local and interim measure is to be

(inaudible) partners. It's not using a permanent control, and what we did from May 24, 2002 -- and we're giving them until May 2005. We're going to allow them to use the respirators until then because of their financial position.

What we'd like them to do is to take a look at the settlement agreement that they did sign, where there were, what we believe to be, easy and inexpensive (inaudible) to correct the violation so that we don't get workers exposed to silver.

MALE SPEAKER: So the remedy was under \$5,000?

FEMALE SPEAKER: Yes, in the settlement agreement that the employer signed (inaudible). So we've given them an extension of time from the original abatement date, which was in July of 2002, until May 1, 2005. This became a final order last Friday.

MALE SPEAKER: What were the estimated costs (inaudible)?

FEMALE SPEAKER: It's approximately, I would say, anywhere from \$2,000 to \$3,000 to (inaudible).

MALE SPEAKER: A year?

FEMALE SPEAKER: (Off mike)

MALE SPEAKER: My question to you is, first of all, I did (inaudible) the negotiations have been going on?

FEMALE SPEAKER: The negotiation has been going on since May 24, 2002, and the final negotiation -- we've had settlement agreements along the way, an extension of time, which was six months, and they asked for more time, and we gave them another six months (inaudible). And then we entered into a settlement agreement where now we give them until May 1, 2005, so that's approximately three years from the original abatement.

MALE SPEAKER: The next question I have, did things change from 2002 to the present time?

FEMALE SPEAKER: Not that we're aware of, because the (inaudible) indicators (inaudible).

MALE SPEAKER: Has your department changed in its approach to problems in any way?

FEMALE SPEAKER: Well, sir, what we did is we offered the assistance of the Ohio State (Inaudible) Services, which were free. But the (inaudible) chose to have a private consultant. We even brought in (inaudible) to look at their (inaudible) network -- were given to them and were given to us, and we reviewed it and we indicated that they were conducting samplings and they indicated along the way, that they were looking into engineering controls that were not costly. So, our cost

estimates from Salt Lake City, were under \$5,000. So now we gave them until May 1, 2005, (inaudible).

MALE SPEAKER: Is that a one-time (inaudible) \$5,000 investment in the remedy?

FEMALE SPEAKER: That's what we believe.

MALE SPEAKER: Okay.

MALE SPEAKER: The (inaudible) would be something cost-effective, but that's the cost per year, and the change that you're recommending -- the \$5,000 cost -- is permanent.

FEMALE SPEAKER: It's permanent. Respirators are only an interim -- they're only an interim measure -- and we're allowing that from 2002 to 2005 -- three years.

MALE SPEAKER: One last point that I have is that if they spend the \$5,000 (inaudible), they're in compliance, and you'll write them off okay -- is that what I understand?

FEMALE SPEAKER: Yes, we'll go back out there and we'll monitor them, we'll find out if the employees are overexposed. If they're not overexposed, then they won't need to wear respirators, or have (inaudible) respirators.

MALE SPEAKER: Okay, fine.

MALE SPEAKER: The reason for my question is that once they spend the \$5,000, OSHA will be satisfied, is that right?

FEMALE SPEAKER: Well, sir, I (inaudible).

FEMALE SPEAKER: What I say to you is that our estimate came in on the factors -- what they need to be, and then they have to do this contractor bid -- it would come out (inaudible).

MALE SPEAKER: What my company -- my experience has been that we get to one place, and then there's another place, and then there's another situation --and small businesses are really fearful of you because you agree to one thing and then you test again, and then go to another stage. That's what I think. I would like to have a response that (inaudible) so that we get that response.

FEMALE SPEAKER: We have reasonable certitude that we believe it fixes it, that will eliminate the overexposure. That's what we were concerned about. We're concerned about workers being exposed to silver, and although, you know, our standard is .01 -- it is very low.

MALE SPEAKER: I understand where you're coming from (inaudible).

MALE SPEAKER: Yes. First of all, they've been very patient. It's very important to make sure for the record that

they have given them extensions, they have offered help, everything along the way that has really been done very well. The issue is, again, the respirators. What we signed said it was going to cost \$5,000; now that we're actually moving forward, it's closer to \$10,000. That's the real world, okay.

But, the biggest fear we have, is we're going to spend this \$10,000 and then we still won't be within the limits because what they propose is an overhead blowing system that will blow - the polishers are up against the policy wheel, okay. They're saying the blowing system from behind will blow air away from the worker into the pipes (inaudible) sucking all the dust up.

(Inaudible), in real life, we don't know if that's going to help, okay. They've also given us some reengineering for the actual protectors on the wheel to keep the dust inside. We don't know if this is going to help.

What we do know is that they're wearing the respirators -- which, by the way, the workers have all said, including the unions -- the United Industrial Workers, they said, please, let's just use these, it's so much easier. We don't have wind blowing all around, which this new system is going to cause a little bit of that. We're certainly willing to spend \$2,000 a year -- if it's that much. I can't imagine it's going to be that much for respirators for these guys.

My big fear is we're going to go through all this, and we're still not going to be within the limit. Then we're stuck.

MALE SPEAKER: I just want to say this is what happens in many (inaudible).

MALE SPEAKER: Do I want to get more (inaudible)?

MALE SPEAKER: (Off mike)

MALE SPEAKER: I think what -- hopefully -- come forward and say this is what we're going to do and so that the owners can have a resolution with the same problem. Thank you.

FEMALE SPEAKER: Yes, and it's very (inaudible) get an extension when they (inaudible). Obviously we'll be reviewing their engineering proposal (inaudible) to make sure, you know, (inaudible). If it's not, then we will work (inaudible), bring in outside help.

MALE SPEAKER: (Inaudible) small businesses need to be aware of.

MALE SPEAKER: Can you give us your name?

MALE SPEAKER: (Inaudible) mediators (inaudible). We see things like this all the time. Because fundamentally, what we have is (inaudible), and I think the folks that (inaudible).

One of the things that has happened to (inaudible), there's been (inaudible) in the toxicology business, a (inaudible), even as the people who're exposed were removed from the work area and (inaudible). But, in essence, (inaudible), because that's unclear to me, and I think that should be (inaudible). What we're really doing is correcting the (inaudible) future.

We know what the federal regulations are, and so that solves that, but what it doesn't solve, is whether a year from now, two years from now, five years from now the employees who (inaudible) when they go back and get tested. (Inaudible), and you can take somebody out of the workplace who's been exposed to the dust and sand, and once they've reached the point of no return, basically their health goes down (inaudible).

Unfortunately, we've made them (inaudible) with silver dust and (inaudible). So the fact is that (inaudible) the union (inaudible) to resolve the issue (inaudible). And then what you further have to do is (inaudible) a sample on the people who (inaudible).

Are we talking about urine analysis (inaudible), because the fact of the matter is, you've got urine samples done and (inaudible) to do long-term studies on the people who are (inaudible). Because if you didn't resolve the workplace (inaudible) -- but you know enough to be able to resolve the exposure issue with the people who were (inaudible). I think that's an issue that we all need to (inaudible).

I don't know very much about this man (inaudible), but I do know how manufacturers in general -- and I do know how they deal with (inaudible) to manufacture. So that anybody can (inaudible). Thank you.

MALE SPEAKER: Thank you very much. You were going to testify about something. Is that the issue you're going to testify about?

MALE SPEAKER: No, no. I'm here to listen (inaudible).

MALE SPEAKER: Okay.

MALE SPEAKER: (Off mike)

MALE SPEAKER: Just one last question, that is -- you said it was a policy that they couldn't use respirators as a -- on a permanent basis? It's not a regulation or a law? There are a lot of regulations you can't change very quickly or law that you can't change.

FEMALE SPEAKER: (Inaudible) law under a (inaudible). (Inaudible) engineering.

MALE SPEAKER: So if you've done tests on these -- so, it's a policy, right?

FEMALE SPEAKER: Yes.

MALE SPEAKER: It's not a law or regulation? Have you done any?

FEMALE SPEAKER: (Off mike)

MALE SPEAKER: Right. And have you done any tests on the employees after they've used the respirators?

FEMALE SPEAKER: We have not done that (inaudible). We've been in negotiations.

MALE SPEAKER: Could you just look into that matter and see if you couldn't use it -- change the policy possibly, if you find that when you test them, that they're below the standard?

FEMALE SPEAKER: (Inaudible) have (inaudible).

MALE SPEAKER: No, I'm saying with the respirators.

FEMALE SPEAKER: Oh.

MALE SPEAKER: If they've used the respirators and afterwards you test them, could you look at that?

FEMALE SPEAKER: (Off mike)

MALE SPEAKER: Thomas said that he'd take care of it on Thursday.

MALE SPEAKER: He told me I can only have one policy a day. Is Mary Ann Newman present? You're next.

MALE SPEAKER: She'll bring the mike to you.

MALE SPEAKER: Thank you.

MS. NEWMAN: I am Mary Ann Newman, and my husband and I run a small business (inaudible) in (Inaudible), Ohio. We actually do transcriptions for doctors, and our (inaudible). We don't have any problems with the regulatory division --or the organizations here, but we do have a comment that we would like to make in regard to the Federal Trade Commission--because in our industry -- and it's the offshore issue and how it's affecting small business (inaudible).

All of the problems that we are seeing -- we actually have -- I have -- actually transcription (inaudible) that work for me, that get (inaudible) up in their own small business that have been affected by their business going offshore.

The problem that we're seeing is that our ability to be able to go into hospitals and clinics and bid for jobs is impossible because offshore (inaudible) is cheaper. What they're doing in our business is that offshore people can actually work for -- say in India, 1.5 cents a line.

We pay our transcriptionists eight cents a line, and that's really substandard income as we look at it. We can't go any higher than that -- we're one of the highest payers in the industry, but yet we can't raise our rates to help our transcriptionists make more money. We're actually going to have to lower them if we don't find a solution.

We have a lot of problems trying to create solutions. One of the solutions we had a couple of years ago, was getting a not-for-profit organization help mentor a lot of transcriptionists here in this country to be able to make (inaudible), to make cheaper prices, and (inaudible) coming into the industry. We couldn't do that because of all the regulations that were involved -- so we couldn't.

We're looking at voice-recognition, but one of the issues that we have with that is the money to be able to do that. In order to be able to have the money to provide that type of equipment -- we would have to have some sort of ability to have the money. Loans are okay but we can't (inaudible) to do that.

So the problem that we're having is the ability to be able to have our industry continue with all of the work -- I mean offshore work. So what we would like to see, of course, is some sort of tariff on the work coming back, or else small business -- who's actually in the middle of all this will be able to get some sort of tax break, or something to help us to be able to sustain our work.

MALE SPEAKER: Well we're fortunate to have congressional representation here today and I'm sure she's made copious notes.

MALE SPEAKER: I'd like to add a little bit to her comment. Recently, (inaudible) was passed in this country to protect medical patient information. We, as a small company, spent somewhere between \$4,000 and \$5,000 to comply with those regulations. But yet, the same work can be taken and sent to India, the Philippines, Pakistan, wherever they want to send it -- with no restrictions whatsoever. So, they don't have to meet these regulations that we have to. That increases the load on our business, but of course, they don't have to face that.

So this work goes into medical records that are being protected in this country, are being sent overseas with no protection whatsoever. Somehow it's just not quite (inaudible).

MALE SPEAKER: That side is important for you to articulate what's going on because the members of Congress really need to get this feedback. We're not in a position where we can do a lot about it but --

MALE SPEAKER: (Inaudible) comment. You're saying that

the work in transcriptions (inaudible), you're under regulations that raise the cost of doing business, is that what I'm hearing?

MALE SPEAKER: Do you have to have things encrypted when they're sent through the Internet, e-mail, and that (inaudible)?

MALE SPEAKER: (Inaudible) transfers to his home. We live in a small town in southeast, south central Ohio, but our work comes out of Cincinnati, and to --

(Tape ended)